S.B.Civil Writ Petition No.1370/2007

Smt. Lad Devi.

vs.

State of Raj. and others.

Date : 2.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.S Mathur, for the petitioners.
Mr.SG Ojha, for the respondent no.4.

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At the request of learned counsel for the parties, this writ petition is heard and decided finally.

The grievance of the petitioner is that the petitioner got the land converted from agriculture to non-agriculture. The petitioner tried her best to obtain construction permission from the respondent no.4 but it was not granted to the petitioner and since the petitioner is owner of the property in dispute and this fact is not in dispute, therefore, the petitioner raised construction in the knowledge of the respondent no.4. According to the petitioner, at the instance of some influential persons, the petitioner's construction is sought to be demolished. It is submitted that he

requested for grant of permission by writing letter.

Nobody appeared on behalf of the respondents no.1 to 3.

The respondent no.4 has submitted an application for vacating the stay order.

It is clear from the arguments of learned counsel for the petitioner that the petitioner got the land converted from agriculture to non-agriculture purpose. The petitioner since has raised substantial construction but it is also admitted fact that the permission to raise construction was not obtained before raising construction. However, the petitioner requested the respondent no.4 to grant permission by sending letter only. The respondents no.1 to 3 may have objection that near the road boundary, construction permission cannot be granted but that is required to granted by the respondent no.4 under law only, as under the Rajasthan Panchayat Act, only Gram Panchayat can grant permission to raise construction.

Learned counsel for the petitioner submitted that in that situation, the petitioner may be permitted to approach the Gram Panchayat for regularisation of the already raised construction and for grant of permission for further construction.

Learned counsel for the respondent no.4 further

states that only the Gram Panchayat alone has jurisdiction to decide the matter whether to grant permission to raise construction or not ?

In view of the above reasons, the present writ petition is disposed of with direction to the respondent no.4 to decide the petitioner's prayer for permission to raise construction and regularisation of the construction in accordance with law only. While doing so, the respondent no.4 may also consider the objections which have been raised by the respondents no.1 to 3 and if the petitioner is entitled to raise construction in accordance with law, then may accord the permission to raise further construction and may also regularise the petitioner's construction but only in accordance with law.

(PRAKASH TATIA), J.

S.Phophaliya